



MICHAEL A. CARDOZO
Corporation Counsel

**THE CITY OF NEW YORK
LAW DEPARTMENT**

100 CHURCH STREET
NEW YORK, NY 10007

JESSICA T. COHEN
Assistant Corporation Counsel
rseligma@law.nyc.gov
(212) 788-0784
(212) 788-9776 (fax)

August 20, 2008

BY HAND DELIVERY

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED
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Re: Angel Aguasviva v. The City of New York, et al.
08 CV 6738 (RMB)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above referenced matter. I write to respectfully request an extension of time from the present date until October 20, 2008 to answer or otherwise respond to plaintiff's complaint on behalf of defendants City of New York, the New York City Police Department and Raymond Kelly. In addition, if Your Honor is inclined to grant this request, defendants also respectfully request an adjournment of the initial conference, presently scheduled for September 11, 2008 at 10:00 a.m., to a date and time convenient to the Court after issue has been joined. The undersigned attempted to contact plaintiff's counsel, Nicholas Velez, Esq., for his consent to these requests but was unable to reach him.

In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Plaintiff, Angel Aguasviva, claims that on or about April 12, 2007, members of the New York City Police Department entered his apartment, located at 1939 Grand Concourse Avenue, Apartment 21, Bronx, New York, pursuant to a search warrant. Plaintiff further alleges that no one was present at the time of the NYPD's arrival. Nonetheless, according to plaintiff's complaint, these unidentified police officers "proceeded to break the door down to the apartment, and further proceeded to ransack, tear up and destroy the contents of the entire apartment." Plaintiff claims that the police took money and a "container of white powder that they confiscated for testing." Plaintiff further claims that his license and documents referencing his place of business were taken. At that time, according to plaintiff, two unidentified NYPD police officers found him at his job, "grabbed him, handcuffed him behind his back and threw him into a squad car." Finally,

plaintiff claims he was driven around for two hours, until he was eventually returned to his premises and "released from custody." Accordingly, it is necessary for defendants to acquire as much information as possible concerning this matter in order to properly assess the case and respond to the complaint. To that end, this office is in the process of forwarding to plaintiff for execution N.Y.C.P.L. §160.50 releases so that we can access the sealed records from plaintiff's underlying criminal prosecution, including the criminal court file, the District Attorney's file, and even our own police records. In addition, to the extent plaintiff is claiming injuries resulting from the alleged incident, this office is also in the process of forwarding a HIPAA compliant medical release to plaintiff for his execution so that we may access any relevant medical records.

Accordingly, defendants City of New York, the New York City Police Department, and Raymond Kelly respectfully request that their time to respond to the complaint be extended to October 20, 2008. In addition, if Your Honor is inclined to grant this request, defendants also respectfully request an adjournment of the initial conference to a date and time that is convenient to the Court after issue has been joined. Thank you for your consideration of these requests.

Respectfully submitted,



Jessica T. Cohen (JC 0044)
Assistant Corporation Counsel

cc: Nicholas Velez, Esq. (by first-class mail)
Attorney for Plaintiff

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| <u>An extension of 30 days is granted to</u> <u>9/22/08. See Court's rules regarding</u> <u>the filing of motions. Conference</u> <u>adjourned to 9/23/08 at 9:00 a.m.</u> | |
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| SO ORDERED: Date: <u>8/21/08</u> | <u>Richard M. Berman</u> Richard M. Berman, U.S.D.J. |